A public nuisance is one that obstructs the public in the enjoyment of a common right or that injuriously affects the community at large, or some considerable portion of it. Whereas a private nuisance is one which obstructs a person in the enjoyment of a private right or which affects one or more as private citizens and as part of the public. *Cooley on Torts,* Sect. 291. It has been held that the rule that a right to maintain a nuisance cannot be acquired by prescription applies only to public and not to private nuisances. *Drew v. Hicks,* 35 Pac. 563 (Cal.). But it was held that if an individual is injured by a public nuisance, it is regarded as a private nuisance, also, for the reason that being a public nuisance from its inception, it is unlawful and can never become lawful by any length of exercise against an individual. *Rhodes v. Whitehead, 27* Tex. 304; *Woodruff v. North Bloomfield Gravel Min. Co.,* 18 Fed. 753. And this is the doctrine which is supported by authority and is recognized in the courts of this country. *Wood Nuis.* 792. Nor does it make any difference that the business was carried on in a reasonable and prudent manner and that nothing was done which was not a reasonable and necessary incident of the business. It still is subject to abatement. *People v. Detroit White Lead Works,* 82 Mich. 471. But the rule seems to be that in order to be abated by the act or at the suit of a private party, some private and special injury must be shown. *Walker v. Shepardson,* 2 Wis. 384. However, against the weight of authority it has been held that when a public nuisance has been continuous, exclusive, known to and acquiesced in by the owner of rights affected thereby, and the use has been extended twenty years or more, the prescription becomes absolute. *Perley v. Hilton,* 55 N. H. 444; 1 *Wood Nuis.* 418-419. And in *Borden v. Vincent,* 24 Pick. 301, although the court did not decide whether the nuisance was public or private, the facts seemed to show that it was a public nuisance, and the prescription was held to have been acquired by the defendant.

TIME—JUDICIAL DAYS.—PEEBLES V. CHARLESTON & W. C. RY. CO., 66 S. E. 953 (GA.).—*Held,* that the general rule that a day in law is an indivisible point, and that fractions thereof will not be regarded in the computation of time, is not applicable where the exact time is necessary to the existence of a right, and cannot be invoked to prevent an abatement of a suit *ex delicto* filed in the name of the plaintiff who, at the exact hour of filing, had been dead for three hours.

The doctrine that in law there is no fraction of a day is a legal fiction and is true only in respect to cases where it will promote right and justice. *Matter of Richardson,* 2 Story (U. S.), 571. It is never adhered to whenever it would work mischief or injustice, or where the time is important or material, or where it becomes necessary to inquire into the exact hour or minute of the day to settle conflicting claims. *Louisville v. Savings Bank,* 104 U. S. 469; *Levy v. Chicago Nat. Bank,* 158 Ill. 88. Hence where time is material to a contract the exact hour of performance may be shown. *Grosvenor v. Magill,* 37 Ill. 239. And in order to show priority of liens or conveyances the law will take notice of fractions of a day and will inquire into the precise time when a

judgment is entered or a conveyance executed. *Bates v. Hinsdale,* 65 N. C. 423; *Naylor v. Throckmorton,* 7 Leigh (Va.), 98. Whether the general rule applies to the time when a statute becomes operative there is much conflict, some states holding that a statute takes effect from the earliest portion of the day of its approval, *Mallory v. Hiles,* 61 Ky. 53, and others holding that the statute takes effect from the time of its approval, and that when the rights of people are affected by it the precise time of its approval may be shown. *Leavenworth Coal Co. v. Barber,* 47 Kan. 29. It has also been held that a statute does not go into force until the day after its approval. *In re Foley,* 28 N. Y. Supp. 608.